

ROBINS KAPLAN LLP

Jake Holdreith (admitted *pro hac vice*)
800 LaSalle Avenue
Minneapolis, MN 55402
Telephone: (612) 349-8500
Facsimile: (612) 339-4181
Email: jholdreith@robinskaplan.com

Scott F. Gautier (admitted *pro hac vice*)
2049 Century Park East, Suite 3400
Los Angeles, CA 90067
Telephone: (310) 552-0130
Facsimile: (310) 229-5800
Emails: sgautier@robinskaplan.com

Counsel to Collegium Pharmaceutical, Inc.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

----- X
:
In re: Chapter 11
:
PURDUE PHARMA L.P., *et al.*, Case No. 19-23649 (RDD)
:
Debtors. (Jointly Administered)
:
----- X

**APPELLANT'S STATEMENT OF ISSUES TO BE PRESENTED AND
DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD OF APPEAL**

Collegium Pharmaceutical, Inc. (“Collegium” or “the Appellant”) respectfully submits its statement of the issues to be presented, and designation of items to be included in the record on appeal, with respect to Appellant’s appeal (the “Appeal”) from the *Order Granting Motions for Relief from the Automatic Stay*, entered by the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”), on September 1, 2020 (the “Order”) [Docket No. 1644].¹

STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL

1. Did the Bankruptcy Court err by holding, either expressly or impliedly, that the automatic stay under section 362(a) and/or 108(c) of the Bankruptcy Code did not toll, extend, and preclude the imposition of any deadline imposed upon Collegium or upon the PTAB in the PTAB Action as set forth in 35 U.S.C. § 326(a) or otherwise?
2. Did the Bankruptcy Court err by holding in the Order that Appellant “is barred from contending in any non-bankruptcy forum that the automatic stay under section 362(a) of the Bankruptcy Code has tolled, extended or precludes the imposition of any deadline imposed upon Collegium or upon the PTAB in the PTAB Action”?
3. Did the Bankruptcy Court err by holding in the Order that “section 108(c)(2) of the Bankruptcy Code does not apply to extend any deadline in the PTAB Action unless it is determined in a non-bankruptcy forum that the PTAB Action is a ‘civil action’ and that the PTAB is a ‘court’ for purposes of section 108(c) of the Bankruptcy Code and the other conditions of such section have been satisfied”?

¹ Unless otherwise provided, capitalized terms used herein shall have the same meaning as set forth in the Order.

DESIGNATION OF RECORD ON APPEAL

Appellant designates the following items for inclusion in the record on appeal. Each designated item shall also include any and all exhibits and documents annexed to and referenced within such items.

1. The following docket items from the CM/ECF docket in the jointly-administered lead bankruptcy case no. 19-23649 (RDD):

	Document	Date Filed	Doc No.
1.	Debtors' Motion for Order Modifying the Automatic Stay to Permit the Debtors to Prosecute Certain Pending Patent Litigation	July 2, 2020	1328
2.	Response of Collegium Pharmaceutical, Inc. to Debtors' Motion for Order Modifying the Automatic Stay to Permit the Debtors to Prosecute Certain Pending Patent Litigation	July 20, 2020	1463
3.	<i>Ex Parte</i> Motion for Entry of an Order Shortening Notice with Respect to Collegium's Motion for Relief from the Automatic Stay to Permit the PTAB Action to Proceed	July 20, 2020	1464
4.	Motion of Collegium Pharmaceutical, Inc. for Relief from the Automatic Stay	July 20, 2020	1465
5.	Notice of Hearing on <i>Ex Parte</i> Motion for Entry of an Order Shortening Notice with Respect to Collegium's Motion for Relief from the Automatic Stay to Permit the PTAB Action to Proceed	July 20, 2020	1466
6.	Notice of Hearing on Motion of Collegium Pharmaceutical, Inc. for Relief from the Automatic Stay	July 20, 2020	1467
7.	Debtors' Omnibus Objection and Reply in Support of Debtors' Motion for Order Modifying the Automatic Stay to Permit the Debtors to Prosecute Certain Pending Patent Litigation	August 19, 2020	1592
8.	Response to Debtors' Omnibus Objection to Collegium Pharmaceutical, Inc.'s Motion for Relief from the Automatic Stay and Debtors' Reply in Support of Debtors' Motion for Order Modifying the Automatic Stay to Permit the Debtors to Prosecute Certain Pending Patent Litigation	August 24, 2020	1601
9.	Order Granting Motions for Relief from the Automatic Stay	September 1, 2020	1644

10.	Transcript Regarding Hearing Held on 8/26/2020 at 10:05 AM	August 27, 2020	1665
11.	Notice of Appeal and Statement of Election	September 15, 2020	1691
12.	Civil Cover Sheet from U.S. District Court, Case Number: 20-cv-7942 Judge Vincent L. Briccetti	September 25, 2020	1729

2. Complete transcript regarding hearing held on August 26, 2020 in the jointly-administered lead bankruptcy case no. 19-23649 (RDD). Though transcript access is restricted through the CM/ECF system, the transcript has been prepared and filed pursuant to Bankruptcy Rule 8010(2), and the Appellant has ordered and obtained copies of the transcript pursuant to Bankruptcy Rule 8009(b).

The Appellant reserves the right to amend, modify, and/or supplement the foregoing statement of issues and designations and/or object, or otherwise supplement or move to strike or modify, some or all of the appellee's counter-designation of additional items to be included in the record on appeal and/or cross-statement of issues on appeal. This filing is made expressly subject to, and without waiver of any and all rights, remedies, challenges, and objections.

CERTIFICATION REGARDING TRANSCRIPT

Pursuant to Bankruptcy Rule 8009(b)(1), the Appellant hereby certifies that it has ordered the required transcript and that the transcript has been prepared and is filed on the docket and is designated in the foregoing designation of the record.

Dated: September 29, 2020
Los Angeles, California

ROBINS KAPLAN LLP

By: /s/ Scott F. Gautier

Scott F. Gautier (*pro hac vice* pending)
2049 Century Park East, Suite 3400
Los Angeles, CA 90067
Telephone: (310) 552-0130
Facsimile: (310) 229-5800

Counsel to Collegium Pharmaceutical, Inc.